IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.18041 of 2002

Dated: October 10, 2007

Between:

Ballanki Achari, S/o.late B. Sivanarayana,
Aged about 46 years, Proprietor, Sri Lakshmi
Saw Mill, Service Connection No.00075,
Venkannapalem village, Chodavaram Mandal,
Visakhapatnam District.

... Petitioner

And

The Chief Engineer, Electricity, Operation,
Office of the Chairman and Managing Director,
A.P.E.P.D.C. Ltd., Daba Gardens,
Visakhapatnam-20, and another.

... Respondents

Order:

Petitioner, proprietor of a sawmill, has filed this writ petition seeking Mandamus to declare the action of the first respondent in not passing any order on the appeal filed by him on 30-08-2002, challenging the proceedings of the second respondent dated 16-07-2002, as arbitrary and illegal.

2. Heard learned counsel for the petitioner and learned Standing Counsel appearing for respondents.

3. Petitioner obtained service connection No. 00075 from the respondents for the purpose of running sawmill in Venkannapalem, Visakhapatnam District. The Assistant Divisional Engineer/DPE-2/Visakhapatnam inspected the service connection of the petitioner on 30-04-2001 and on noticing some incriminating points, registered a case of pilferage of energy against him. As per the terms and conditions of supply, the second respondent, Superintending Engineer, Assessment Circle, APEPDC Ltd., after giving opportunity to the petitioner, issued proceedings dated 16-07-2002, assessing the loss of energy due to pilferage at Rs.1,80,946.30 Ps. However, as the petitioner has earlier paid Rs.45,751/-, he was asked to pay the balance amount of Rs.1,35,045.30 Ps.

4. The case of the petitioner is that though he preferred appeal on 30-08-2002 against the proceedings dated 16-07-2002 of the second respondent, as per the terms and conditions of supply, no orders have yet been passed by the first respondent.

5. This court, while admitting the writ petition, by order dated 19-09-2002, granted interim direction in W.P.M.P.No.22677 of 2002, subject to the condition of petitioner depositing an amount of Rs.25,000/- within three weeks therefrom.

6. Though respondents have not filed counter affidavit, learned Standing Counsel appearing for respondents submits that no appeal, as submitted by the petitioner, has been preferred before the first respondent.

7. In the material papers filed along with the writ petition, petitioner has filed a copy of the appeal stated to have been filed before the first respondent, which would indicate that though it was addressed to the first respondent, Chief Engineer, it was sent to the office of the Managing Director, A.P.E.P.D.C Ltd., through registered post.

8. As much as it is the specific case of the petitioner that he filed appeal before the first respondent on 30-08-2002, against the proceedings of the second respondent dated 16-07-2002 and no counter affidavit is also filed, I dispose of the writ petition permitting the petitioner to file a fresh appeal before the first respondent, Chief Engineer, with correct address within four weeks from the date of receipt of this order and on such appeal being filed, the first respondent, Chief Engineer, shall entertain the same without any objection with regard to limitation and pass appropriate orders on its own merits within three months from the date of its receipt. Till such time, respondents shall not take any further steps to enforce the order dated 16-07-2002. It is clarified that if no such appeal is filed by the petitioner within the time stipulated above, it is open for the respondents to proceed in accordance with law. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

October 10, 2007
MRR